

Testimony of Senator Sherrod Brown
Effects of Proposed Arrangement Between DHL and UPS on
Competition, Customer Service, and Employment
House Transportation and Infrastructure Committee
September 16, 2008

Thank you, Chairman Oberstar, Ranking Member Mica, and members of the committee.

The entire Ohio delegation is grateful for the time and attention you and your staffs have dedicated to the proposed transaction between DHL Worldwide Express and United Parcel Service, the effect it could have on communities throughout southern Ohio, and the implications it holds for our national package delivery system.

Mr. Chairman, before I begin, I'd like to say a word about the efforts and coordination between local, county, state and federal officials.

Members of the community have pulled together, from the city council all the way to the White House. Both Senator Barack Obama and Senator John McCain have recognized the substantive and financial risks posed by this deal, and are following the situation closely.

I cite especially the work of Mayor Raizk of Wilmington, Congressman Turner, Governor Strickland and Lt. Governor Fisher here today.

I also want to thank committee members LaTourette, Space, Schmidt, and Latta who have shown dedication beyond the confines of their districts.

I also appreciate the tireless work of Teamsters Local 1224 (Capt. Dave Ross) and the Air Line Pilots Association (Capt. John Prater).

The last three and a half months have been difficult for thousands of families in Ohio. Their futures are at stake. If this deal goes through, jobs will be lost, homes will be lost, and communities will face even more challenges.

With more than 8,000 jobs in the balance, the proposed UPS-DHL deal is an economic disaster.

If the DHL-UPS deal breaks antitrust rules, we need to know that, and we need to know it quickly.

Last week in the House Judiciary Committee hearing on this proposal, we learned that DHL voluntarily went before the Justice Department, which we appreciate. Yet it will not submit itself to a voluntary investigation, and it plans to consummate the deal regardless of the status of the investigation.

That makes it very difficult for the Justice Department to examine the deal from the customer's perspective. I hope both companies will reconsider, and allow the Justice Department to investigate and not consummate the agreement until the government completes its investigation.

I am particularly disturbed that DHL's confidentiality and exclusivity agreement with UPS to complete this contract limits it from alternative structures that can keep DHL competitive, benefit consumers, and keep jobs in Ohio.

Specifically, DHL embarked on this proposal with UPS before really engaging the incumbent carriers, ABX Air and ASTAR, in an effort to reduce costs. DHL chose this course before talking with Governor Strickland about ways the state might help DHL cut costs.

After not choosing to work with its partners, DHL went ahead and bound itself to a confidentiality and exclusivity agreement with UPS.

Considering the lengths the state of Ohio and surrounding communities took to welcome DHL to Wilmington, including more than \$400 million in direct and indirect incentives, DHL's behavior is hardly a model of corporate responsibility.

Contrary to what both companies state, the DHL-UPS proposal is not a traditional agreement. It raises several questions that, so far, have not been answered.

Under this proposal, how can DHL lower prices or improve service? How can DHL prevent UPS from manipulating costs and service? How does DHL prevent UPS from obtaining sensitive information on customers and pricing?

Congress needs to better understand what this proposed deal would mean for free market competition. In my view, it can only mean trouble.

Congress also needs to understand how DHL took Airborne Express, a company that was profitable, and in just four years generated staggering losses.

When DHL purchased Airborne Express in 2003, it had an 18 percent market share. By 2007, DHL's market share dwindled to about 7 percent.

Now, Ohio stands to lose 8,000 jobs directly – and thousands more if you count other jobs in the community.

Clearly DHL's performance justifies changes to the company, but not to the market in which it functions.

Competitive pricing and consumer choice are the hallmarks of a functioning market. They must be preserved.

The ripple effects of this proposed deal, if it goes forward, would reach beyond the financial hardship it will create in Ohio. The final result may leave a mark on how our government approaches the next stage of the U.S.-EU Open Skies Initiative, which aims to loosen existing restrictions on EU air carriers operating in our country. Its proponents claim that deal will create thousands of U.S. jobs, and benefit our nation's economy enormously.

Ohioans have heard this before, just five years ago.

When DHL moved to Ohio, it was going to boost competition in the air carrier market, create thousands of good paying jobs, and benefit Ohio's economy enormously.

Now, it plans to walk away from the community.

The story does not have to end this way.

We want DHL in Ohio and to be successful. We want them competing in the market.

Thank you for the opportunity to share my views and for the Committee's commitment to examining this proposal. I look forward to continuing to work with the city of Wilmington, the state of Ohio and federal officials in fighting for these jobs.